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May 24, 2023

BY ECF

The Honorable Valerie E. Caproni
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *D.W., S.B. individually, and S.B. on behalf of their child, A.W. v. New York City
Department of Education, 23-cv-01790 (VEC)*

Dear Judge Caproni:

I am the Assistant Corporation Counsel in the Office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, assigned to represent Defendant the New York City Department of Education (the "Department") in the above-referenced action. I write jointly with counsel for Plaintiffs, Noelle Boostani, Esq., to respectfully request that the Court extend the Department's deadline to respond to the Complaint in this action and adjourn *sine die* the upcoming Initial Pretrial Conference ("IPTC") and the related submission of a pre-conference Joint Letter.

Plaintiffs D.W. and S.B. are the parents of A.W., a minor student who has received special education services (the "Student"). See Complaint (Dkt. No. 1) at ¶ 3. According to the Complaint, (1) S.B. is the prevailing party in an administrative proceeding that concerned the Student's educational placement and services during the 2020-2021 school year (*Id.*, ¶¶ 26, 61); (2) S.B. initiated an administrative proceeding that concerned the Student's educational placement and services during the 2021-2022 school year, in which the Impartial Hearing Office issued a Pendency Order (*Id.*, ¶¶ 32, 46); and (3) as of the date of the Complaint, the Department had yet to implement that Pendency Order. (*Id.*, ¶¶ 39, 49, 53.) Plaintiffs request in the Complaint that the Court issue an order, *inter alia*, declaring that the Department has violated Plaintiffs' rights under the Individuals with Disabilities Education Act and 42 U.S.C. § 1983 (*Id.*, ¶¶ 66, 67); awarding reasonable attorneys' fees and costs to Plaintiffs in connection with this action and the underlying administrative proceedings (*Id.*, ¶¶ 69, 70, 72, 73); and enjoining the Department to implement the Pendency Order (*Id.*, ¶ 71).

Plaintiffs filed the Complaint in this action on March 1, 2023. (Dkt. No. 1.) By Order dated March 27, 2023, the Department's deadline to respond to the Complaint was extended to May 26, 2023. (Dkt. No. 8.) By Order dated April 17, 2023, upon the parties' joint request, the IPTC in this action was adjourned to June 16, 2023, and the deadline to submit a pre-conference Joint Letter was extended to June 8, 2023. (Dkt. No. 10.)

The parties have worked cooperatively to resolve the issues raised in this action with the shared goal that they avoid burdening the Court's resources. Pursuant to those efforts, the Department has completed the payments that underlie Plaintiffs' implementation claim, and I have informed Ms. Boostani of same. Ms. Boostani, in turn, has informed me that Plaintiffs agree that the payments have been made, and that the Department has thus implemented the Pendency Order at issue.

In light of the above, the parties now wish to attempt to resolve, without need for Court intervention, Plaintiffs' request for attorneys' fees and costs. Accordingly, the parties jointly and respectfully request that the Court (1) extend by 90 days the Department's deadline to respond to the Complaint, from May 26, 2023 to August 24, 2023, (2) adjourn *sine die* the IPTC, currently scheduled for June 16, 2023, and (3) adjourn *sine die* the parties' requirement to submit a pre-IPTC Joint Letter, currently due by June 8, 2023. This is the second request to extend the Department's deadline to respond to the Complaint (but the first such request made jointly), and it is the second joint request to adjourn the IPTC and to extend/adjourn the Joint Letter submission deadline.

Thank you for your consideration of this request.

Respectfully,

/s/ _____
Darian Alexander
Assistant Corporation Counsel

CC: BY ECF
all counsel of record

Application GRANTED. The initial pretrial conference scheduled for June 16, 2023, is hereby ADJOURNED *sine die*. The parties must provide a joint update on the status of settlement by no later than **July 28, 2023**. If settlement is not reached, then Defendant's deadline to answer the complaint is **August 24, 2023**.

SO ORDERED.



Date: 5/25/2023

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE